IN THE HIGH COURT OF UTTARAKHAND AT NAINITAL

Court's order whether the case is or not approved for reporting

(Chapter VIII, Rule 32(2) (b)

Description of Case

CRIMINAL APPEAL No 142 OF 2001
(Old No. 10 of 1986)

Keshar Singh S/o Gopal Singh …..Appellant.

Vs.

The State …Respondent.

Sri Mahendra Singh Pal, learned Senior Advocate, assisted by
Sri V.S. Pal, learned counsels for the appellant.
Sri T.A. Khan, learned A.G.A. assisted by
Sri Sudhir Kumar, learned brief holder for the State

Date of decision :- 28.03.2007

A.F.R. (Approved for Reporting)

Not approved for reporting

Date:- 28.03.2007 Initials of Judge

Note:- Bench Reader will attach this at the top of the first page of the judgment when it is put up before the Judge for signature.

IN THE HIGH COURT OF UTTARAKHAND,
AT NAINITAL

Criminal Appeal No. 142/2001
(Old No. 10 of 1986)

Keshar Singh S/o Gopal Singh,
R/o Village Chaulslal, Patti Garoi,
Tehsil Didihat, District Pithoragarh…Appellant.

Versus

The State…… …. Respondent

Sri Mahendra Singh Pal, learned Senior Advocate, assisted by
Sri V.S. Pal, learned counsels for the appellant.
Sri T.A. Khan, learned A.G.A. assisted by Sri Sudhir Kumar,
learned brief holder for the State

Hon'ble Dharam Veer, J:

This criminal appeal, U/S 374 of the Code of Criminal Procedure, 1973 (hereinafter referred 'Cr.P.C.'), has been preferred by appellant Keshar Singh against his conviction and sentence recorded by Sessions Judge, Pithoragarh vide judgment and order dated 21-12-85 in Sessions Trial No. 11 of 1985, whereby the appellant was held guilty of the charges punishable U/Ss 326 and 201 I.P.C. and was sentenced to four years R.I. and a fine of Rs. 1000/- and in default of payment of fine to undergo R.I. for a further period of six montsh U/S 326 I.P.C. and two years R.I. and a fine of Rs. 500/- and in default of payment of find to further undergo R.I. for three months U/S 201 I.P.C.

2- The prosecution case, briefly stated, is as follows:-

Village Chausal is situated within Patti Garoi, Tehsil Didihat, District Pithoragarh, Uttarakhand. Most of the persons of this village are serving in the Indian Army. Their old parents, wives and children reside in the village. For the paucity of cultivable land the inhabitants of this village substantially depend on

money order economy. Sub- post office has been established in this village. The money orders and letters sent by the Armymen to their families residing in the village, are distributed through this sub-post office. According to the prosecution case in 1983 accused Keshar Singh was Branch Post Master and one Prem Singh was the postman in this sub post office. Dalip Singh (P.W. 5) son of Moti Singh (P.W.1) of this village Chausal is an Armyman serving in Delhi. His father Moti Singh and his wife Smt. Nandi Devi reside in the village. Dalip Singh used to sent money-orders and letters to his wife at village Chausal. The money-orders and letters sent by Dalip Singh used to be received by accused Keshar Singh and they were distributed by Prem Singh, postman. It is alleged that accused Keshar Singh developed a bad habit of opening the envelopes of Armymen to their families and replace them with his obscene letters. In this sequence, accused Keshar Singh also opened the letter sent by Dalip Singh to his wife Smt. Nandi Devi and placed obsecene letter, Ext. Ka.2 therein and sent it to Nandi Devi. When this letter came to the notice of P.W.1, Moti Singh, the father of Dalip Singh, he could not relish it. He sent a complaint to the higher postal authorities alongwith letter, Ext. Ka.2. He also informed about it to his son Dalip Singh.

3- The villagers of Chausal were also dejected with the bad habit of accused Keshar Singh, so they also sent a joint complaint, Ext. Ka.3 to postal authorities. Dalip Singh also at his end complained to postal authorities about the ill-deeds of accused. On the above complaint the postal authorities set up inquiries against the accused and as a result of which he has been removed from the post of Post Master. Further case of the prosecution is that on 24-10-1983 the witness Dalip

Singh had come to his village on two months leave. When he at about 7.30 P.M. along with Bhupal Singh reached near Bhainskhali Diggi, the accused Keshar Singh called, as to who was coming. Dalip Singh responded that he was Dalip Singh going to his house on leave. Accused Keshar Singh and his son Jiwan Singh came near the Bhainskhali Diggi and accused Keshar Singh made the blows of Dau on Dalip Singh . Dalip Singh warded off the assault but the blows fell on his hands causing fatal injuries. The injured screamed and fell unconscious on the ground. It is also alleged that the incident was witnessed by Bhupal Singh, who out of fear ran away from the scene of occurrence. It is also the case of prosecution that both the accused keshar Singh and his son Jiwan Singh removed the blood stained clothes from the person of the injured and concealed them in a field. Next day in the morning at about 6 A.M. Bhupal Singh informed Moti Singh, the father of the injured, about the incident. Moti Singh went to the scene of occurrence and found his son lying naked having injuries on his both the hands. He raised alarm and attracted the villagers to the scene of occurrence. Thereafter he got prepared F.I.R., Ext. Ka.1 On th spot on the basis of information given by Bhupal Singh. Then he, with the help of Trilok Singh, Pratap Singh, Mohan Singh, Prem Singh, Tara Singh etc. brought the injured to Patwari Quarter, Bhagichaura in a Doli, and lodged written F.I.R. at 10 A.M. The Patwari Laxman Singh Pingal (P.W.6) on the basis of written report, prepared chick F.I.R. Ext. Ka.8 and registered a case at crime No. 1 of 1983 on 25.10.1983 U/S 307 I.P.C. against the accused appellant Keshar Singh and his son Jiwan Singh. The Patwari started Investigation in the case. He recorded the statements of complainant Moti Singh and injured Dalip Singh at the patwari

quarter. Since the condition of injured was serious, therefore, he prepared letter for medico legal and sent the injured to P.H.C. Didihat.

4- At P.H.C. Didihat, Dr. A.S. Saun, examined the injured on 25.10.1983 at 12.30 P.M. and found the following injuries on his person:-

1-One incised wound over the outer part of upper arm (right) 9.5 cm x 5cm, in area, bone deep, 12 cms above the right elbow and 21 cms below the right shoulder tip. Oozing of blood on deep pressure present. The muscles underneath are severed transversely by the force of the cutting object. Wound is transversely oblique in situation. Evidence of fracture of right humorous bone at the site of injury present clinically. Referred to Superintendent District Hospital, Pithoragarh for expert treatment and ex-ray right upper arm.

2-One incised wound 2.5cm x 1cm in area, muscle deep, over the right upper arm, 1cm away and towards the inner side of injury no.1, oozing of blood present.

3- One incised wound over the left elbow, 9cms x4cms in area, bone deep, 5cm below and outwards to the left elbow tip, muscles underneath the wound are severed transversely. Oozing of blood present. Wound is transversely oblique over the outer side of the left elbow. Evidence of fracture of left radius clinically. Referred to Superintendent, District Hospital, Pithoragarh for expert treatment and x-ray right elbow.

In the opinion of the Dr. Saun the injuries were one day old and may have been caused on 24.10.1983 at 7.30 P.M. with a heavy sharp cutting weapon. The Medical Officer prepared the injury report, ext. ka.4.

5- Dr. V.K. Tandon, Superintendent, District Hospital, Pithoragarh (P.W.4), in his presence got the upper part of right arm and left elbow and lower part thereof x-rayed on 26-10-1983. He examined the x-ray plate and found oblique fracture lower 1/3 shaft of right humorous and oblique fracture upper 1/3 shaft of left radius. The x-ray report, Ext. Ka.7 was prepared.

6- On 26.10.1983 the injured Dalip Singh was refered to Military Hospital at Pithoragarh. There, he received treatment for about two weeks. Then he was referred to Military Hospital, Bareilly for further treatment. There he got treatment for about two weeks and therefrom he was referred to Military Hospital, Lucknow, where he received treatment for about one month.

7- The Investigating Officer along with one Kanungo and three Patwaris reached at the place of occurrence on 26.10.83 at about 4 P.M. and on the pointing of witness Bhupal Singh, he inspected the place of occurrence and prepared site plan, Ext. Ka.9. Then he arrested the accused Keshar Singh at about 6 P.M. on the same day. He also recovered the blood-stained clothes of the injured from the field below the house of the accused and sealed them at the spot and prepared memo Ext. ka.5 It is said that accused Keshar Singh produced Dau after removing the same from beneath from his house. The I.O. took Dau in his possession, sealed it on the spot and prepared Memo, Ext. Ka.11.

The I.O. arrested accused Jiwan Singh on 7.11.1983. Aftr completing the investigation he submitted charge sheet, Ext. Ka. 12 against the present accused/appellant Keshar Singh as well as his son accused Jiwan Singh.

8- The Munsif Magistrate, Pithoragarh, vide his order dated 29.8.85, committed the case to the court of Sessions. The learned Sessions Judge, Pithoragarh framed charges U/Ss 307 and 201/34 I.P.C. against accused Keshar Singh charges U/Ss 307/34 and 201/34 I.P.C. against the accused Jiwan Singh. The accused persons pleaded not guilty to the charges and claimed their trial.

9- The prosecution, in order to prove its case, produced P.W.1, Moti Singh, complainant of the case, P.W.2, Dr. A.S. Saun, who medically examined the injured Dalip Singh, P.W.3, is the witness of recovery of blood-stained clothes of the injured handed over to the I.O. by the accused, P.W.4, Dr. V.K. Tandon, Senior Surgeon, who prepared x-ray report, Ext. Ka. 7, P.W.5, Dalip Singh injured witness and P.W.6, Laxman Singh Pingal, the Investigating Officer of the case.

10- The accused persons, in their statements, U/S 313 Cr.P.C. denied the prosecution allegations and alleged that they have been falsely implicated in the case. The accused/appellant Keshar Singh also alleged that when post office was established in the village, he and two other persons of the village, viz. Jagat Singh and Nandan Singh sent applications for appointment of postmaster. He was appointed as postmaster and being annoyed at this, these two other persons have concocted the case against him. After his removal one of these persons Nandan Singh S/o Laxman Singh has been

appointed postmaster. No evidence has been adduced in defence.

11- The learned Sessions Judge, on appreciation of evidence on record and hearing learned counsel for the parties, acquitted the accused/appellant Keshar Singh U/S 307 I.P.C. However he was held U/Ss 326 and 201 I.P.C. and was sentenced to four years R.I. and a fine of Rs. 1000/- and in default of payment of fine to undergo R.I. for a further period of six months U/S 326 I.P.C. and two years R.I. and a fine of Rs. 500/- and in default of payment of fine to further undergo R.I. for three months U/S 201 I.P.C. The other co-accused Jiwan Singh was acquitted of the charges U/S 307/34 and 201/34 IPC leveled against him.

12- Feeling aggrived, the accused/appellant Keshar Singh has come up in appeal before this court.

13- I have heard Sri M.S. Pal learned Senior Advocate, assisted by Sri V.S. Pal, on behalf of the appellant and Mr. T.A. Khan, learned A.G.A. assisted by Sri Sudhir Kumar, Brief Holder on behalf of the State and have perused the record.

14- Learned counsel for the appellant has vehemently argued that in the present case solitary witness Dalip Singh has been produced by the prosecution and his evidence is in conflict with other evidence, hence he is not a wholly reliable witness so as to record conviction of the appellant on his testimony and the trial court has committed error in relying on his evidence. He also submitted that the prosecution has deliberately withheld the so called eyewitness Bhuapl Singh, who according to the injured Dalip Singh was with him and

had seen the occurrence and non-examination of this witness creates doubt in the credibility of the prosecution story. It was also submitted that on the same set of evidence, the trial court acquitted the co-accused Jiwan Singh, while according to the prosecution both the accused participated in the commission of crime and hence the conviction of the appellant cannot be sustained in law.

15- The learned A.G.A. on the other hand, urged that the trial court has properly analysed the evidence on record and has correctly come to the conclusion and thus calls for no interference.

16- In a case of this nature when there is a sole witness to the incident, his evidence has to be accepted with an amount of caution and after testing it on the touchstone of the evidence tendred by other witnesses or evidence as recorded. The Hon'ble Apex Court in the case of **Joseph Vs. State of Kerala,** reported in **(2003) 1 supreme Court cases, 465,** in relation to the evidence of solitary witness of the occurrence, has observed as under:-

> *"**13**. To our mind, it appears that the High Court did not follow the aforesaid standard but went on to analyse evidence as if the material before them was given for the first time and not in appeal. Section 134 of the Indian Evidence Act provides that no particular number of witnesses shall in any case be required for the proof of any fact and, therefore, it is permissible for a court to record and sustain a conviction on the evidence of a solitary eyewitness. But, at the same time, such a course can be adopted only if the evidence tendered by such witness is cogent, reliable and in tune with probabilities and*

Inspires implicit confidence. By this standard, when the prosecution case rests mainly on the sole testimony of any eyewitness, it should be wholly reliable. Even though such witness is an injured witness and his presence may not be seriously doubted, when his evidence is in conflict with other evidence, the view taken by the trial court that it would be unsafe to convict the accused on his sole testimony cannot be stated to be unreasonable."

17- In view of the principle of law laid-down by the Hon'ble Apex Court in case-law (supra), it is to be seen whether the testimony of solitary injured eyewitness Dalip Singh, P.W.5, is wholly reliable or not. Dalip Singh, P.W.5 in his examination-in-chief has given the statement that on 24.10.83 he was coming his home on two months leave. At about 7.30 P.M. when he reached near Bhainskhali Diggi (tank), there he met Keshar Singh and his son Jiwan Singh. Bhupal Singh of his village was also with him. He also deposed that the accused Keshar Singh told who is coming, at this he told that I Dalip Singh is going his home on leave. At this, Keshar Singh attacked him with Dau which hit his upper part of right shoulder. The blow may hit on his head, if he would not have gone back. This witness further alleged that on receiving the blow of Dau he shouted loudly and fell on the ground and became unconscious. Thereafter the could not know howmany blows were given to him. When he regained his consciousness next morning at about 6 A.M. he found himself naked in the field of Keshar Singh having only undershirt on his body. He also alleged that he had also sustained injury on his left shoulder and blood was coming out from the injuries. His companion Bhupal Singh seeing the occurrence had run away from the

spot . This witness also alleged that accused Jiwan Singh was having a gun and was with accused Keshar Singh. This witness further deposed that when he regained full consciousness, wife of Nar Singh saw him in naked state and stopped him to go his home, hence he went to the house of Kunwar Singh where he wore a Paijama. In the mean time his wife, and Trilok Singh, Pratap Singh, Mohan Singh, Prem Singh and Tara Singh had come there, who brought him in a Doli to Patwari at Bhagichaura. This part of statement of this witness is contradicted by the statement of his father P.W.1, Moti Singh, the complainant of the case. According to P.W.1, Moti Singh, about two years ago at 6 A.M. Bhupal Singh came to him and told that accused Keshar Singh and Jiwan Singh had assaulted his son Dalip Singh with Dau. On this information he went at the spot near Bhainskhali Diggi and saw that there were injuries on both the hands of his son and blood was coming out from the injuries. He called the village people and started weeping loudly, and hearing his shouts villagers came at the spot. Thus there is contradiction in the statements of P.W.1, Moti Singh and P.W.5, Dalip Singh. Moti Singh had told that when in the next morning he reached the place of occurrence his son was lying there in injured condition, whereas according to Dalip Singh, he himself had gone to the house of Kunwar Singh where he wore a Paijama.

18. Further P.W.5 has stated that his wife and Trilok Singh, Pratap Singh, Mohan Singh, Prem Singh and Tara Singh had brought him in a Doli to Patwari at Bhagichaura. This witness has not given the name of Moti Singh among the person who had come to him in the morning whereas according to Moti Singh first of all he had reached at the spot and on his shouts other

villagers had reached there. Further Moti Singh has told that the injured was brought to the Hospital from the spot in a Doli whereas according to injured he was brought to Patwari Quarter.

19- The another important aspect of the case is that the place of occurrence is about 100 paces away from the house of complainant Moti singh and no one had heard the shrieks of injured and the injured remained in unconscious state throughout the whole night in naked condition at the place of the occurrence, whereas it has come in the evidence of injured witness Dalip Singh in his cross-examination that there are many houses nearby the place of occurrence and the shouts from the place of occurrence can very well be heard by the inhabitants of these houses. This theory of the prosecution is unreasonable and seems to be a cock and bull story.

20- There are contradictions in the statement of injured Dalip Singh on oath and the statement recorded by the I.O. during investigation with regard to the incident. Before the I.O. injured Dalip Singh had given the statement that Keshar Singh and his son Jiwan Singh caught hold of him and dragged 2 to 3 fields above and then attacked him with Dau, whereas in his on oath statement he has told that accused Keshar Singh met him in the way and suddenly attacked him with Dau and gave its blows. This is a major contradiction with regard to the manner of assault, which makes the testimony of this witness doubtful.

21- The defence theory as set up by it is that the accused Keshar Singh and two other persons viz. Nandan Singh S/o Laxman Singh and Jagat Singh S/o

Mohan Singh have applied for the appointment on the post of postmaster and this accused was appointed by the postal department and for this reasons they were inimical towards him and they concocted a false case against him. After his removal, the above Nandan Singh S/o Laxman Singh has been given appointment on the post. P.W.3, Laxman Singh has been examined to prove the recovery of bloodstained clothes of the injured. Nandan Singh who is present postmaster in the village is the cousin of this witness. The defence has given suggestion to this witness that application Ext. Ka.3 was got written by him against the accused Keshar Singh to take necessary action against him for his misdeeds. Although this witness has denied this suggestion, but perusal of Ext. Ka.3, reveals that this witness Laxman Singh and his cousin Nandan Singh had also signed the said complaint and they wanted to remove keshar Singh from the post of postmaster and after his removal Nandan Singh got the job which is an admitted fact.

22- On a careful scrutiny of the statement of the solitary injured eyewitness, I find that his deposition do not inspire Implicit confidence. His evidence is in conflict with the evidence of P.W.1, Moti Singh with regard to the manner of assault and lodging of F.I.R. and it will be unsafe to convict the accused on his sole testimony which is unreasonable.

23- The another important aspect of the case is recovery of blood-stained clothes and Dau, the weapon of assault at the instance of accused Keshar Singh. According to P.W.3, Laxman Singh on 26-10-83 Patwari. Called him and carried him to the house of Keshar Singh. The accused was at his house. Patwari arrested

him and the licensee gun of Keshar Singh as seized by the Patwari. The accused on interrogation told that the clothes of injured Dalip Singh have been kept by him in his field beneath the soil. At this accused carried them there and handed over the blood-stained clothes to the Patwari. This statement of P.W.3, Laxman Singh is contradictory to the statement of I.O. Laxman Singh Pingal, P.W.6. This witness has given on oath statement that he inspected the house and the surrounding area and found the clothes in a khud from below the house of the accused. He has not stated about handing over these clothes by the accused himself. In the Fard, Ext. Ka. 5, the I.O. has noted that the clothes were discovered at a distance of about 58 yards in a Khud from the house of the accused beneath the soil in the field of the accused and the discovery was not shown at the instance of accused himself. Further P.W.3, Laxman Singh has made on oath statement that the clothes were recovered at about 3 or 3.30 P.M. in the day. He has specifically denied that the recovery was not made in the evening at about 6 or 6.30 P.M. whereas in the Fard recovery, Ext. Ka.5 it has been mentioned that the clothes were recovered at about 6.30 P.M. Further the I.O. in his statement before the court has deposed that the accused was arrested at about 6 P.M. on 26.10.1983 and thereafter the clothes were recovered in a Khud downwards the house of accused in the field. The aforesaid circumstance makes doubtful the presence of P.W.3, Laxman Singh at the time of recovery of clothes and this fact Indicate that P.W.3, Laxman Singh is a got up witness. The so-called recovery of the cloths also become highly doubtful in the matter as narrated by the prosecution.

24- Further case of the prosecution is that while the accused was in police custody he entered inside his house and brought out the weapon of assault kept in his house. Consfessional statement made by an accused in police custody cannot be proved against him. Admittedly the accused was in police custody and the I.O. has not reduced in writing the alleged confessional statement of accused in consequence of which the alleged weapon of assault, i.e. Dau was discovered. Again the witness of recovery, P.W.3, Laxman Singh falsifies the discovery of Dau. This witness has deposed that he had made his signatures on the Fard recovery Dau, Ext. Ka.11 at the instance of Up Pradhan and Patwari. He further alleged that in fact Dau was not recovered in his presence but he was simply asked to make his signatures on it. No other independent witness of recovery has been produced to prove the recovery of the above incriminating object. The above facts clearly establish that false recovery of Dau has been shown so as to plant Dau, as weapon of assault, against the accused. Therefore, recovery of Dau also becomes doubtful. The prosecution has not sent the above so called recovered articles for chemical examination and this fact also goes against it.

25- The opinion of the doctor do not support the prosecution version. Dr. A.S. Saun, P.W. 2 has medically examined the injured on 25.10.83 at about 12.30 P.M. in P.H.C. Didihat and found three incised wounds. The doctor examined himself the Dau and opined that the Dau had rough surface and its edge were broken at 2-3 places. According to him there may not be laceration in the margin of injury due to broken edge of the weapon whereas the margins of the injuries of Dalip Singh were clean cut. He has clearly opined

that due to these injures the injured would not have become unconscious, whereas the prosecution theory is that witness Dalip Singh remained lying at the spot in unconscious state throught the whole night. It is highly improbable that at a high altitude, like the place of occurrence, in the cold days, the injured would have remained safe in naked situation throughout the night at the open place of occurrence. This fact is not in conformity with the medical version and creates serious doubt in the prosecution story.

26- The defence story, as set up by it, is that the injured consumed heavy wine with his companion at Bhagichaura and in the way they quarreled with each other and in the scuffle the injured suffered injuries and due to enmity with the accused, the accused were falsely roped in a false case. It is an admitted fact that villagers were inimical towards accused Keshar Singh, even joint application was also given by them against him to the post authorities and inquiry was set up against him and ultimately he was removed from the post of postmaster and the possibility of false implication of the accused Keshar Singh can not be ruled out.

27- Learned counsel for the appellant next submitted that the F.I.R. Ext. Ka.1 has been filed with delay. According to him the F.I.R., in fact was not filed on 25-10-1983 and that is the reason that there is overwriting in the F.I.R. on letter ‘5’ of date 25.10.1983. He has further alleged that the F.I.R. was not lodged on 25.10.1983 as the I.O. could not reach the village of occurrence on 25.10.83 and he visited the village of occurrence on 26.10.1983. The above submission of the learned counsel for the accused/appellant is supported by the on oath

Statement of Laxman Singh, P.W.6, the I.O. of the case. This witness has deposed that he visited the place of occurrence on 26.10.83 at about 4 P.M. in the evening. In the chick F.I.R. place of occurrence from the Patwari Chauki has been shown only at a distance of two kilometers. Therefore, looking to the overwriting in the date of filing of written report, Ext. Ka.1 and the delay of about two days in arriving in the village of occurrence by the I.O. clearly indicate that the F.I.R. is anti-dated and has been lodged after consolation and due deliberation.

28- It will not be out of place to mention here that in the charge sheet, ext. Ka.12 Bhupal Singh, Mohan Singh., Prem Singh, Smt. Nanda Devi, Gopal Singh, Madan Ram and Trilok Singh were also shown as witnesses. According to injured Dalip Singh, Bhupal Singh was with him at the time of Incident and he had seen the occurrence, but the prosecution has not produced this important witness for the reason best known to it. This is fatal for the prosecution case. No explanation has come on record as to why this witness has not been produced in support of prosecution version.

29- From the aforesaid discussion, I am of the considered view that the evidence of solitary witness, injured Dalip Singh (P.W.5) can not be said to be wholly relable so as to record conviction of accused/appellant on that basis. There is delay in lodging the F.I.R., the independent eyewitness Bhupal Singh has been deliberately withheld by the prosecution and there are material contradictions in the prosecution evidence noted above. In view of the aforesaid shortcomings in the prosecution case the appellant Keshar Singh canot

be held guilty of the offences U/Ss 326 and 201 I.P.C. and he is liable to be acquitted.

30- The appeal is allowed. The judgment and order dated 21-12-85 passed by the Sessions Judge, Pithoragarh in S.T.No.11/1985 convicting the accused/appellant Keshar Singh U/S 326, 201 I.P.C. and sentencing him to undergo four years R.I. and a fine of Rs. 1000/- and in default of payment of fine to further undergo R.I. for a further period of six months U/S 326 I.P.C. and two years R.I. and a fine of Rs. 500/- and in default of payment of fine to further undergo R.I. for three months U/S 201 I.P.C., is hereby set aside. The accused/appellant Keshar Singh is acquitted of the charges U/Ss 326 and 201 I.P.C.

31- The accused/appellant Keshar Singh is on bail. His bail bonds are cancelled and sureties discharged. He need not surrender.

32- Let the record be sent back to the trial court.

(Dharam Veer, J.)

Dated: March 28, 2007.

ISB